

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*

ROKOSCH

THOMPSON *AT*

CHILCOTT *gl*

DRISCOLL *KD*

PLETTENBERG (Clerk & Recorder)

Date.....May 6, 2008

Members Present.....Commissioner Carlotta Grandstaff,
Commissioner James Rokosch, Commissioner Greg Chilcott and Commissioner Kathleen
Driscoll

Minutes: Glenda Wiles

► The Board met to open bids for the Fiscal Audit for year ended 2008. Present at this meeting was Comptroller Jana Exner. Four bids were received as follows:

- Ron Foltz - \$31,000 (increase of \$1,500 with new risk assessment and changes in audit standards – 490 hours to complete; 2009 with
- Nichole Newman of St. Regis - \$28,500, 29,500 30,500
- Denning Downing Assoc 34,500 36,225, 37,900
- Denning Downing 2008 only \$34,500 does not include any related district or consulting services

Commissioner Chilcott made a motion to have Comptroller and Internal Auditor for review. Commissioner Rokosch seconded the motion. This will be emailed to Klarryse for review and recommendation to the Board. All voted “aye”.

Minutes: Beth Perkins

► The Board met for a public hearing for Morado Mountain Estates major subdivision plus one variance request. Present were Planner Renee Lemon, County Attorney George Corn, Civil Counsel Karen Mahar, Representatives Terry Forest and Stacy Dykeman.

Commissioner Grandstaff called the hearing to order and stated this meeting would be for the variance request only and not the subdivision hearing. She requested any disclosure of actual, possible or perceived conflicts of interest, hearing none, then requested the Staff Report.

Renee presented the Planning Staff Report as follows:

**MORADO MOUNTAIN ESTATES
58-LOT MAJOR SUBDIVISION AND ONE VARIANCE REQUEST
STAFF REPORT FOR THE BOARD OF COUNTY COMMISSIONERS**

CASE PLANNER: Renee Lemon

**REVIEWED/
APPROVED BY:** Karen Hughes

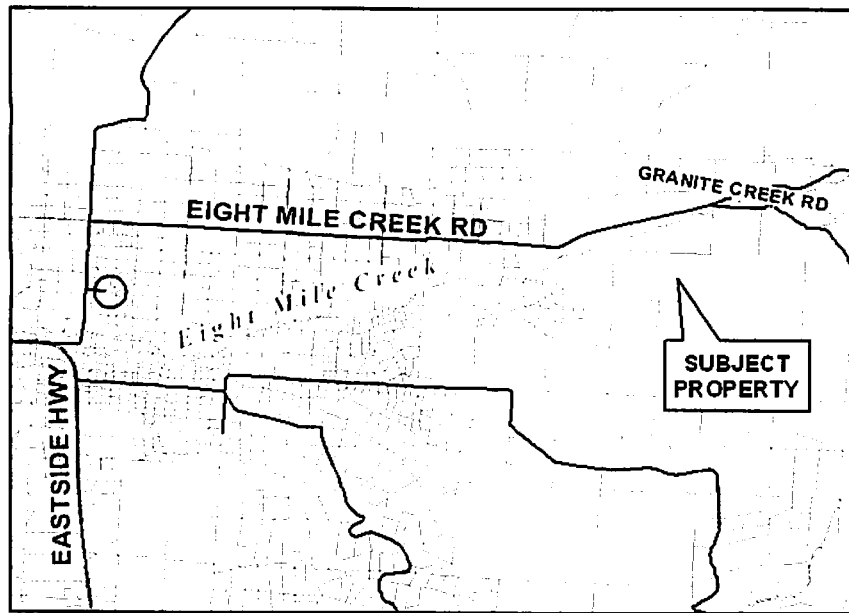
PUBLIC MEETINGS: Planning Board Public Meeting: April 16, 2008
BCC Public Hearing: 9:30 a.m. May 6, 2008
Deadline for BCC action (60 working days): May 23, 2008

SUBDIVIDER: Morado Mountain Estates, LLC
705 Spanish Peaks Drive
Missoula, MT 59803

TITLEHOLDER: Marion McHatton
PO Box 746
Lolo, MT 59847

REPRESENTATIVE: Terry L. Forest, P.E.
DJ&A
3203 Russell Street
Missoula, MT 59801

LOCATION OF REQUEST: The property is located east of Florence off
Granite Creek Road. (*See Map 1*)



Map 1: Location Map
 (Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
 OF PROPERTY:**

The S2NW4 and the W2NE4 of Section 10, T10N, R19W, P.M.M., Ravalli County, Montana.

**APPLICATION
 INFORMATION:**

The subdivision application was determined sufficient on February 29, 2008. Agencies were notified of the subdivision on April 16, 2007 and March 3, 2008. Comments received from agencies are Exhibits A-1 through A-31 of the staff report. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended May 24, 2007.**

LEGAL NOTIFICATION:

A legal advertisement was published in the *Ravalli Republic* on Tuesday, April 1, 2008. Notice of the project was posted on the property and adjacent property owners were notified by certified mail dated March 12, 2008. One public comment was submitted. (Exhibit B-1)

**DEVELOPMENT
 PATTERN:**

Subject property:	Agricultural/Open Space
North:	Agricultural/Open Space
South:	Agricultural/Open Space
East:	Agricultural/Open Space

INTRODUCTION

Morado Mountain Estates is a proposed 58-lot major subdivision located approximately 6.0 miles east of the community of Florence. Based on concerns from the Planning Department and Planning Board about the impacts of the internal road design on local services and public health and safety, the applicant has redesigned the subdivision. The redesign includes a second access via Riley Lane, potentially Haley Court, Jenne Lane, and Eight Mile Creek Road. Section 3-2-9 of the Ravalli County Subdivision Regulations outlines the process for amending an application after the application has been deemed sufficient but prior to the public hearing. The Planning Department has five working days to determine how the process will proceed with the amendments. During this time the sixty working day period is suspended. The applicant requested that the May 6th public hearing before the BCC remain. Due to the requirements of Section 3-2-9, planning staff cannot complete the staff report for the subdivision at this time. Planning staff recommends that the BCC review the variance request at the public hearing on May 6, 2008. At that time, the Planning Department will offer guidance on how to proceed with the subdivision review.

The subdivider is requesting a variance from Sections 5-4-5(a) and (b)(4) of the RCSR, to allow the subdivider to pay for the cost of materials to improve the portion of Eight Mile Creek Road leading to the subdivision to meet the road standards for existing construction within a 50-foot wide easement instead of reconstructing the road to meet the road standards for new construction. County road standards reflect the standards of the American Association of State Highway and Transportation Officials (AASHTO). AASHTO standards for existing construction differ from AASHTO standards for new construction.

PLANNING STAFF RECOMMENDED MOTIONS

1. That the variance request from Sections 5-4-5(a) and (b)(4) of the Ravalli County Subdivision Regulations be ***approved***, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.
2. Due to an amended application submitted by the applicant, the review of the subdivision has been suspended. The Planning Department will provide more information after reviewing the amended application. (Section 3-2-9, Ravalli County Subdivision Regulations)

PLANNING STAFF RECOMMENDED CONDITIONS FOR THE VARIANCE

1. The applicant shall meet the following requirements prior to final plat approval (*Variance*):

- a) The applicant shall pay the cost of materials required to improve the portion of Eight Mile Creek Road from Station 5+50 to meet the county road standards for existing construction. The applicant shall submit a receipt from the Ravalli County Treasurer's Office 30 calendar days after both the Morado Mountain Estates and Sandhill Ridge subdivisions have been granted preliminary approval showing that half of the payment has been paid. The applicant shall submit a receipt from the Treasurer's Office showing that the remaining amount has been paid 45 calendar days after the first amount was paid;
 - b) The current 50-foot wide easement will be acceptable for the improvements;
 - c) Improvements to the north/south major collector segment of Eight Mile Creek Road will be at a road width of 24 feet for a distance of 3,150 feet, and the improvements to the east/west minor collector segment will be at a road width of 22 feet for a distance of 17,375 feet;
 - d) Applicants will pay for a 0.12-inch leveling course and an 0.17-inch wearing course. The mutually agreed upon calculations for the leveling course and wearing course over the areas noted in item (c) are:
 - i. 1,520 cubic yards crushed aggregate for the shoulders at \$11.00 per cubic yard equaling \$16,720.
 - ii. 4,680 tons plant-mix asphalt at \$45.00 per ton equaling \$210,600.
 - iii. 7,625 tons plant-mix asphalt at \$45.00 per ton equaling \$343,125;
 - e) Additional improvements will require that applicants pay for 1 (10x3x48) Concrete Box Culvert at \$420 per foot + \$2,700 in delivery costs for a total of \$22,860;
 - f) The total costs under (d) and (e) is \$593,305, but the applicants acknowledge this total is subject to change depending on the unit cost of plant-mix asphalt. The parties also acknowledge that these calculations were generated by David Ohnstad at the Ravalli County Road and Bridge Department; and,
 - g) The applicant's expenditures for Eight Mile Creek Road improvements will be offset by any pro rata payments made in the same grader district from the time either subdivision is preliminarily approved until the time of Eight Mile Creek Road reconstruction. (*Section 3-2-8(a), RCSR, Prerequisites to Approval and Variance*)
2. The applicant shall provide for a 50-foot wide public trail easement through the common areas, as proposed in Exhibit C. (*Variance*)

VARIANCE REQUEST

The subdivider is requesting a variance from Sections 5-4-5(a) and (b)(4) of the RCSR, to allow the subdivider to pay for the cost of materials to improve the portion of Eight Mile Creek Road leading to the subdivision to meet the county road standards (or AASHTO standards) for existing construction within a 50-foot wide easement instead of reconstructing the road to meet the county standards for new construction.

Variance Analysis

Section 7-3-5(a), RCSR, outlines two sets of criteria to be used in analyzing a variance request.

Prerequisite Variance Criteria

In order for a variance to be considered for approval, the BCC must first determine that the variance request meets these stipulations:

1. Strict compliance with these regulations will result in undue hardship.
2. Compliance is not essential to the public welfare.

Variance Review Criteria

If and only if a positive determination is made on both of the prerequisite criteria, the BCC may then consider the variance for approval, based on the five variance review criteria:

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
- B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.
- C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).
- D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.
- E. The variance will not cause a substantial increase in public costs.

Both sets of criteria were reviewed simultaneously. Findings for Prerequisite Criterion #1 are based on an analysis of Variance Review Criteria B and C. Findings for Prerequisite Criterion #2 are based on an analysis of Variance Review Criteria A, D, and E.

Five Variance Review Criteria

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

Findings of Fact:

1. Eight Mile Creek Road is a county-maintained road that provides access to the proposed subdivision from Eastside Highway to Granite Creek Road. (Exhibit A, RCSR)
2. It is estimated that this subdivision will generate an additional 464 vehicular trips per day. (Morado Mountain Estates Subdivision Application)
3. The applicant is required to improve the portion of Eight Mile Creek Road leading to the subdivision to meet the county standards for new construction. (Section 5-4-5(a) and (b)(4), RCSR)
4. Eight Mile Creek Road currently has a varying travel surface width around 22 feet, 1 to 2-foot wide shoulders, and a 50-foot wide easement. The road does not meet county standards for new construction. (Morado Mountain Estates Subdivision Application)
5. The Montana Department of Transportation (MDT) is planning to reconstruct the intersection of Eastside Highway with Eight Mile Creek Road to be a roundabout in the future. The completion date is not known. (Morado Mountain Estates Subdivision Application)
6. Since MDT will be improving the intersection of Eastside Highway with Eight Mile Creek Road, the required improvements would begin approximately 500 feet north of the existing intersection (Station 5+50 on the aerial photography submitted with the road plans). (Exhibit A-23)
7. The applicant originally requested a variance from improving Eight Mile Creek Road and instead proposed to pay a pro rata share. The Road Department strongly opposed the variance request. (Exhibit A-18)
8. The applicant, the applicants of Sandhill Ridge (another proposed subdivision that accesses off Eight Mile Creek Road), the applicants' engineers, the applicants' attorneys, the Road Department, the Planning Department, and the County Attorney's Office had several meetings and substantial communication about the required improvements to Eight Mile Creek Road. (Exhibit A-23)
9. The applicant is now requesting a variance from Section 5-4-5(a) and (b)(4), which requires that Eight Mile Creek Road be reconstructed to meet the county road standards for new construction, and is instead proposing to pay the cost of materials associated with constructing the portion of Eight Mile Creek Road leading to the subdivision to meet the county standards for existing construction with the exception of easement width. To mitigate the fact that the current easement width cannot fit a pedestrian path, the applicant is proposing a 50-foot wide trail easement through the subdivision in case there is area trail planning in the future. (Morado Mountain Estates Variance Application)
10. The following improvements are needed in order for Eight Mile Creek Road to meet the county road standards for existing construction, except for easement width:
 - a) Road preparation, which would address any roadside drainage issues

- b) A 24-foot wide pavement overlay from Station 5+50 in the preliminary road plans to the intersection with Lower Woodchuck Road
 - c) A 22-foot wide pavement overlay from the intersection with Lower Woodchuck Road to Granite Creek Road
 - d) 2-foot wide gravel shoulders on both sides over entire length
 - e) A 0.12-foot thick leveling course on the entire length
 - f) A 0.17-foot thick wearing course on the entire length
 - g) Asphalt aprons on the 49 driveway approaches along the entire length
 - h) A new box culvert installed at Station 5+50
 - i) Advance warning signs and speed advisory traffic control signs
11. The applicant submitted preliminary road plans to improve Eight Mile Creek Road to meet AASHTO standards for existing construction from Station 5+50 to Granite Creek Road. The proposed road improvements can be accomplished within the existing 50-foot wide easement. (Morado Mountain Estates Variance Application)
 12. The applicant submitted four design exceptions for the horizontal curves along Eight Mile Creek Road. (Morado Mountain Estates Variance Application)
 13. The Road Department granted preliminary approval of the road plans and the four design exceptions. (Exhibit A-17)
 14. The cost of materials for the improvements is estimated at \$593,305.00. (Exhibit A-23)
 15. David Ohnstad, Road and Bridge Department Supervisor, has agreed to provide the labor if the applicants provide the cost of materials. (Exhibit A-23)
 16. The applicants of Morado Mountain Estates and Sandhill Ridge have agreed to share the cost of materials for the improvements, and request that the County provide the labor. (Exhibit A-23)
 17. The applicants are also requesting that any pro rata money submitted in the same grader district between the time Morado Mountain Estates and Sandhill Ridge receive preliminary approval and the time the improvements to Eight Mile Creek Road are completed be reimbursed to the applicants. (Exhibit A-23)
 18. The County Attorney's Office summarized discussions with the applicant. (Exhibit A-28)
 19. *To mitigate impacts on public health and safety, the applicant shall pay the cost of materials to improve the portion of Eight Mile Creek Road leading to Granite Creek Road to meet the county road standards for existing construction. (Condition 1 of Variance Approval)*
 20. *The applicant shall provide for a 50-foot wide public trail easement through the common areas, as proposed in Exhibit B. (Condition 2 of Variance Approval)*

Conclusions of Law:

1. If the applicant fulfills the requirements of Condition 1, then the County would receive the cost of materials to improve the portion of Eight Mile Creek Road leading to the subdivision to meet county standards for existing construction.

2. A 50-foot wide trail easement through the subdivision would provide the opportunity for an alternative off-road trail if the Eight Mile area is developed in the future.
3. The granting of the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties.

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Findings of Fact:

1. Section 5-4-5(b)(4) requires that applicants of subdivisions with more than 20 units improve all roads leading to the subdivision to meet county standards for new construction. (RCSR)
2. There has been increased development activity proposed to access off Eight Mile Creek Road. (Ravalli County Planning Department)
3. Sandhill Ridge, a 35-lot major subdivision that also accesses off Eight Mile Creek Road, will be reviewed by the BCC on May 8, 2008. The requirement of Section 5-4-5(b)(4) also applies to Sandhill Ridge. (Sandhill Ridge Subdivision Application)
4. The applicants of both Morado Mountain Estates and Sandhill Ridge are proposing to pay the cost of materials to improve the portion of Eight Mile Creek Road leading to Morado Mountain Estates to meet county standards for existing construction. (Morado Mountain Estates Variance Application)
5. The Road Department stated that constructing Eight Mile Creek Road to meet county standards for existing construction is acceptable for the combined ADT that would result from Morado Mountain Estates and Sandhill Ridge for the following two reasons (Exhibit A-23):
 - a) The current condition of Eight Mile Creek Road does not require complete reconstruction
 - b) The horizontal and vertical curvature of Eight Mile Creek Road is generally level

Conclusions of Law:

1. The fact that Ravalli County has two development proposals that are required to make road improvements on the same road is a unique condition.
2. The recommendation from the Road Department that the applicant should improve the road to meet the road standards for existing construction is a unique condition.

C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Findings of Fact:

1. The horizontal and vertical curvature of Eight Mile Creek Road is generally level. (Exhibit A-23)
2. The easement width for Eight Mile Creek Road is 50 feet. (Morado Mountain Estates Variance Application)

Conclusion of Law:

The challenge of purchasing additional easement to reconstruct the road to meet county standards for new construction is not a physical condition.

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2193). The application complies with Resolution 2193.
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined in italics below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

Countywide Goal 4: Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

Countywide Policy 4.1: Encourage development that will minimize or avoid additional costs to existing taxpayers.

Countywide Policy 4.2: Consider cumulative impacts of development.

Countywide Policy 4.4: Improve and maintain existing infrastructure and public services.

Countywide Policy 4.5: Developers will be responsible for providing the infrastructure necessary within the development such as community water, sewage treatment and roads. A system of "nexus and proportionality" will govern external infrastructure costs attributable to the developer.

- The applicant is proposing to pay the cost of materials to improve the portion of Eight Mile Creek Road leading to the subdivision to meet county standards for existing construction. The applicant is also dedicating a 50-foot wide trail easement for future area trail planning. (Morado Mountain Estates Variance Application)
- The Road Department has granted preliminary approval of the road plans and recommends that the proposal be approved. (Exhibit A-23)
- The County Attorney's Office summarized discussions with the applicant. (Exhibit A-28)
- *To mitigate impacts on public health and safety, the applicant shall pay the cost of materials to improve the portion of Eight Mile Creek Road*

leading to Granite Creek Road to meet the county road standards for existing construction. The applicant shall also provide for a 50-foot wide trail easement, as proposed in Exhibit B. (Conditions 1 and 2 of Variance Approval)

Conclusions of Law:

1. The subdivision proposal complies with applicable zoning regulation.
2. The variance will not vary from the provisions in the Growth Policy.

E. The variance will not cause a substantial increase in public costs.

Findings of Fact:

1. The applicant is proposing to pay the cost of materials to improve the portion of Eight Mile Creek Road leading to the subdivision to meet county standards for existing construction. (Morado Mountain Estates Variance Application)
2. The Road Department has granted preliminary approval of the road plans and recommends the proposal be approved. (Exhibit A-17)
3. The County Attorney's Office summarized discussions with the applicant. (Exhibit A-28)
4. *To mitigate impacts on public health and safety, the applicant shall pay the cost of materials to improve the portion of Eight Mile Creek Road leading to Granite Creek Road to meet the county road standards for existing construction. (Condition 1 of Variance Approval)*

Conclusion of Law:

The granting of the variance will not cause a substantial increase in public costs.

Prerequisite Variance Criteria

A. Strict compliance with these regulations will result in undue hardship.

Findings of Fact:

1. The conclusion for Criterion B is there are unique conditions associated with the variance request.
2. The conclusion for Criterion C is that there are no physical conditions preventing the applicant from acquiring the 60-foot wide easement and constructing the road to meet full county standards.

Conclusion of Law:

Strict compliance with these regulations will result in undue hardship.

B. Compliance is not essential to the public welfare.

Findings of Fact:

1. The conclusion for Criterion A is that granting the variance will not be substantially detrimental to public health and safety, general welfare, and adjoining properties.
2. The conclusions for Criterion D are that the variance request complies with applicable zoning regulations and does not vary from the provisions in the Growth Policy.

3. The conclusion for Criterion E is that the granting of the variance will not cause a substantial increase in public costs.

Conclusion of Law:

Compliance is not essential to the public welfare.

C. Overall Conclusion on Hardship and Public Welfare

The variance application provides evidence that there is an undue hardship and that compliance with the RCSR is not essential to the public welfare.

Commissioner Grandstaff opened public comment.

Terry Forest gave a Power Point presentation regarding the variance request and the proposed improvements to Eight Mile Creek Road. He stated they are requesting two items with the variance. One is to allow the applicant to improve Eight Mile Creek Road to existing AASHTO road guidelines instead of new construction standards. The second is to be allowed to use the existing 50 foot right-of-way instead of being required to acquire 60 feet. Terry discussed receiving letters in favor of the project. He presented them to the Board for review. He then pointed out on the vicinity map of where the project is proposed to start and where it would end. He stated there are currently poor road surface conditions. Existing potholes and gravel creates slippery road conditions. Terry discussed poor signage and the 50 mph speed limit making it difficult to maneuver around turns. There is a four way intersection with one stop sign at Lower Woodchuck Road. There are two corrugated metal pipes on the down hill slope of the west side that need to be replaced.

Terry discussed the proposed safety improvements to bring the road up to AASHTO standards. The surface of the north/south section of Eight Mile Creek Road will be improved at ½ inch additional asphalt required to bring the road up to a 10 year life. The County Attorney's Office, Planning and Road Department negotiated 3 1/2 inches. The two arch pipes will be replaced with a new concrete culvert to carry the flow. They will repair the potholes and pave to a width of 24 feet. The surface of the east/west sections of Eight Mile Creek Road will be improved as well with 3 1/2 inches of asphalt. Terry discussed the "S" curve on the east/west section of the road and signing it with maximum speed of 35 mph. They will be also be doing construction with 2% and 4% super elevations curves to meet AASHTO design guidelines. New stop and curve signs will be erected on the east/west road section to better notify drivers of safety concerns. He pointed them out on the map and stated they are to have reduced speed limits. The east/west section will be paved to have a 22 foot wide travel surface.

Terry reviewed the variance negotiation details. He stated the existing county right of way of 50 feet exists on 47 parcels over 1.7 miles. He stated he finds it impossible to obtain the other 10 feet of easement without an SID or other means. The developers, the County Attorney's Office, the Planning Department and the Road Department mutually

agreed that a 50 foot right of way was sufficient for the proposed improvements. The developers, the County Attorney's office, the Planning Department and the Road Department mutually agreed that Eight Mile Creek Road would be designed to AASHTO existing road standard guidelines. They are proposing gravel shoulders at a cost of \$70,000, asphalt \$550,000, and the culvert \$23,000. Terry stated Morado Mountain Estates would pay \$370,018, which would be added to Sandhill Ridge contribution for a total of \$593,305. They are proposing a 50 foot easement throughout the subdivision which would provide for trails. Terry stated the pro-rata payment comparison would be approximately \$6,380 per lot. They are putting a lot of money into this road to better the whole community. He stated the road improvements they are requesting through the variance would be a substantial benefit.

Matt Ulberg is an engineer with DJ&A and stated he would like to discuss how the AASHTO guidelines work with this project and how it is impacted as a whole from a transportation standpoint. He stated they use ADT to determine the traffic loading and what the overlay thickness should be on the road. Two main concerns are surface condition of the roadway and moisture getting through the roadway. The road is in need of rehabilitation. He stated they estimated the growth rate at 6% which is a very high growth rate. He discussed the mathematics resulting in the overlay thickness for the road. He discussed the long term solution being a 20 year life. The signage is substandard. An additional stop sign at the Lower Woodchuck intersection will provide additional public safety. He discussed the 50 mph curve as not being safe. This is a good opportunity to provide a safer road. By working with the County it will add substantial benefits to the residents on the road. The ADT is 1471 at Lower Woodchuck and drops to 326 at Jenne Lane. They were dropped to 1,100 ADT with the project at a 6% growth rate. In the past three years, when the traffic analysis was done they used 3 ½% growth. It was justified to look at 6% growth with the proposed lots. He stated with the lots, in his opinion they will be experiencing about 3 to 4% growth.

Julie Titchbourne, an engineer from WGM Group and representative of Big Sky Development Group stated AASHTO guidelines make recommendations on design and traffic engineering. Standard design is a level B such as Reserve Street in Missoula. She discussed how they classify the street. Eight Mile classifies as a rural collector as it has many access points. Roads are designed to balance safety, efficiency and economy. The goal is to have a minimum width to satisfy the growth. They have a recommendation of a 22 foot wide road. It is a mostly flat road with the speed of 50 mph. They are meeting existing conditions with a 22 foot wide with AASHTO recommendations. She stated the details of the project and stated each case has its own challenges and uniqueness. They have brought forth a safe design.

Bill Zader stated he lives on the Eight Mile Creek Road. He sees what can be accomplished when people work together. They are seeking order not authoritarian order but rational order. They want to go through their daily lives without physical harm or threat of disaster. They had a relatively peaceful valley until recently. He stated the Planning Board has not acted in a fair manner and did not grant a fair hearing. The members did not read the materials in advance of the meeting. The two developers

proposing the improvements were not treated fairly. Other developers he had seen, one in particular wanted to pave a 50 foot stretch at a cost of \$110,000 that only a hand full of people use and the county considers it a private road. Don't you wonder about that? We as citizens have to take time off of work to attend these meetings. We request the Board reverse the Planning Board's recommendation. We want a safe road for our families. We as citizens will hold the Board responsible for any decision against the variance.

Eddie McHatton requested the Board approve the variance. The Eight Mile Creek Road accesses the Bitterroot Valley and the Granite Creek area to the east and the Woodchuck areas to the north. He hauled logs out of the Eight Mile Creek Road in 1950-51 and it has not been improved any more than some thickening of the road. It is not fair that two property owners are being targeted to provide the total cost of the road improvements.

Dennis Schneiter stated he lives on Eight Mile Road and has safety concerns with the road. He does not think there is one person who drives the road on the right side due to the potholes. He urged the Commission to support the variance on the road. If not, when will the road get fixed and what happens when the properties that are subdivisions get subdivided again? It is a tremendous opportunity. The amount of money being presented is setting a precedent. He urges the Board to approve the variance request.

Nicole Post stated she lives off Fairview Lane. She has two sons that wait for the school bus and it is dangerous on Eight Mile Creek Road. She has almost been hit by a car twice on the road. Cars swerve to avoid potholes almost hitting pedestrians. She has seen the school buses swerve to avoid the potholes which also put her children in danger. It is only a matter of time before someone gets seriously hurt or killed. She begged the Board to allow the variance and if not to please fix the road.

Jim Shrieve, Chairman of the Florence Fire Board, stated he received a letter from the developers a week ago. He stated the Eight Mile Creek Road is in the worst shape he has seen since 1970. He is concerned with the response times for Eight Mile Creek Road and his team. He requested the Board allow the variance for a safer road.

Roger Mikesell stated he has been on the ranch since 1959. The road is in the worst shape he has ever seen. There is a lot of traffic and no stop signs. He has personally driven through the intersection at lower Woodchuck during a storm without realizing it due to lack of signage. He stated the variance should be approved. It is the responsibility of the County to improve this road. He stated he has seen police driving on the road that also swerve to avoid the potholes and then just smile and wave when you do it because they know how bad the road is. This is something that needs to be done especially with the changes happening. His wife is an EMT and has been on the road multiple times for traffic accidents. He requested the approval of the road variance.

Bill Scuillion, president of the homeowners association, stated his family lives on the "S" curve on Eight Mile Creek Road. The Homeowners Association has 34 lots. He read the letter he submitted to the Board regarding the condition of the road. He called the Road Department several times regarding the deterioration of the road and was told there was

no funding to improve the road. He was surprised he was not informed of the proposal to improve the road. The 24 foot width issue is a separate issue altogether. The improvements are more important. His neighbor on the S-turn has had four cars go through her fence this winter going 50 mph. The police don't stop motorists due to knowledge the road is so bad. He requested the Board approve the variance and questioned what would happen with public safety should it not be passed.

Russell Fox who lives in Granite Creek Subdivision stated anyone who drives Eight Mile Creek Road knows the amount of pedestrians and bikers on the road. He stated one of the problems is the amount of them on the road with the subdivisions. Each new subdivision brings more pedestrians and bikers. He believes gravel shoulders are not the best idea. He recommended paving both sides of the shoulders for a pedestrian trail. There is an underlying problem with the access onto the Eight Mile Creek Road onto Eastside Highway with the numbers of vehicles and general growth. He questioned any consideration of improving the gravel portion of the bottom of Granite Creek Road. There is a poor visibility coming off of Granite Creek Road.

Katherine Fichtler stated she lives on Cooney Creek Road. She stated she realizes everyone has an agenda. She suggested a paved foot trail with designated bus stops on every couple of roads. All of the south roads coming onto Eight Mile Creek Road need stop signs. She would like to see a fire substation especially with the wildfire risk. She was in a rollover accident on Eight Mile Creek Road due to the garbage cans being out in the road and that should be considered in the road design.

Del Post stated he is an attorney in Missoula. He is a member of the law firm representing Morado Mountain Estates. He is not here as a representative but as a citizen. He requested the Board approve the variance. He has children and he feels their safety is at risk. This is an opportunity with the developers to improve the road. He recognizes the development is not very popular with the community but he believes a lot of the negativity is not being able to see the money they put into the community. This is a perfect opportunity to see the money at work.

Terry Basolo stated he lives on Granite Creek Road. He is a fourth generation Montanan and loves living where he is. The neighbors asked him when fencing his property to not fence where the school bus turns around. He does not have children and has complied with the neighbors request and has dealt with vehicles being parked on his land and the trash on the ground.

Lee Kierig stated he has a couple of questions. The Planning Board had a reason to deny the variance due to lack of information. They did not have the County's cost to provide labor at the time. There is no doubt the road needs repair. He questioned whether or not throwing good money after bad such as the total cost of the road and how it would serve the growth rate over time. There is a serious concern of the life-health safety systems in the community. It is not about agendas but rather than the ability to deal with growth. He spoke about the proposed fire hall and multiple calls that would be received with increased subdivisions. Whether or not the community wants the density proposed, a

properly designed fire station would cost \$300,000 plus a design system for water flow for the trucks. Are the current mitigation costs enough to support the community?

Ben Hillicoss stated he lives in Florence and on the Planning Board. He is opposed to the variance. Due to the current conditions of the road and the subdivisions being proposed, the road has to be brought up to standards. There is significant problems with Eastside Highway being an access point. The accidents are high in this area. There needs to be a foot path along the road.

Curtis Cook stated he is a resident of Ravalli County. There are problems with the variance request. What is the cost to the County for the repairs to the road? All he has heard is what the developer is proposing but not the cost of the whole road. It leaves \$500,000 to the county. It is ridiculous. The work being proposed to the road does not include the base of the road. What is going to be used for the base to bring it up to AASHTO standards to make it last over the period they have been talking about. We have had long sessions here regarding how important AASHTO standards are to the county to follow. The traffic study needs to be used to ensure safety. Curtis discussed PILT and SRS funding not being passed yet and how it could affect the Road Department budget being short for FY 2008. This could result in the loss of jobs. Ravalli County is one of the biggest beneficiaries with the PILT and SRS funding and could not have the money for their portion of improving the road. The 50 foot right of way is not wide enough for foot paths. If children walk to a collection point for the school bus, where are they going to walk? For every dollar the county takes in development, it costs a dollar and half in services.

Terry Forest stated with the growth rate over time, they did the calculations at 6% which includes the Morado Mountain and Sandhill subdivisions. It is up to other subdivisions to pay their share. They are not saying they will pay everything to improve the road for the four mile stretch. He spoke with the bus company in Florence regarding pick up. AASHTO standards are not a standard but guidelines. They have met the standards and the guidelines. They are below the number that require a 24 foot wide road. They are required to put in a 22 foot wide road. When other subdivisions come in, they will need to pay their share to widen the road to 24 wide. For the walking trails, there are people who will not give easement for the trail. There is also utility poles to take into consideration. David Ohnstad told him he will continue to get pro-rata to widen the road and get a trail in there. He does not see anywhere in the regulations where it requires him to put in a 5 foot trail. He does not see it fitting in there. When talking about guidelines, you are talking about AASHTO. You can vary from the guidelines if it is safe. He does not know about the bus stops or how often they stop. He feels strongly the developers have put forth an effort to improve the situation. There are other things that could be done; however, they are proposing to go forward with this proposal.

LaRue Moorhouse stated she came here to listen not speak. In the area she lives, there is only one way to go out to the road. The road is in horrible condition. The Road Department cannot keep up with it. The Eight Mile Road people should band together and demand Mr. Ohnstad repair this road. If the subdivision is approved and the variance,

once the subdivision is built out with every home having two cars, the Road Department will not be able to keep up with the maintenance.

J.R. Iman stated he would like to make some points with this effort. One point is there is no other subdivision that has come to the county offering \$600,000 to fix the road themselves. The second point is there are a number of 50 foot easements in the county that have been accepted by the County. It is a situation we have to live with. The roads may not be wide enough. When you can get someone to come up with money to benefit the citizens, it is a good thing. The last point is he has never seen anyone provide a commitment to the citizens (other than the Commission). They should be commended for their effort. They need to use existing standards for the road. He requested the Board take into consideration the effort of what is being offered. This is a good deal.

Jan Wisniewski stated he is on the Planning Board and has driven the roads of the county for a long time. If this variance is denied, when is the road going to be fixed and where the money is coming from?

Matt Ulberg stated the projection is 10 years with 6% traffic growth and ADT (average daily traffic). They did not reduce their calculation at any time. It is over the estimated traffic increase over that period of time. They will fix the potholes correctly and not do an overlay of asphalt. The signing can be done tomorrow. The emergency services access would be greatly improved. The AASHTO guidelines for new construction is stated in the manual and is never concretely set at 60 foot easement for rural collectors. 50 feet accommodates the road and is adequate.

Archie Thomas stated these projects are suffering in a general sense of timing. The Board has been elected as a planning commission. He stated in the process of looking down the road, it is an inconvenience it is coming now. We'll be looking for projects like this in the future. No matter when it shows up, you can't solve all the problems. Where do you draw the line that this is the responsibility of this project. You have to be pragmatic with the cards you are dealt. General economic trends, what is one of the largest segments in Ravalli County? 46% of the economic base are commuters going to Missoula. If the same projects were being proposed in Darby, it would not happen due to the area of economic trend and commuters going to Missoula. This works. Please consider it.

Attorney Bill VanCanagan representative of the developers stated he would like to express his thanks to the County Attorney's Office for their hard work and commitment and time and energy for this arrangement. He thanked Mr. Alex Beal for the time and effort with the nexus and proportionality legal issues. He thanked Mr. Ohnstad for his efforts in this process and how Mr. Ohnstad was every thorough to identify a solution and work towards that solution creating a win-win situation. He then thanked the Planning Staff for their contributions in the effort. He requested the Board take into consideration the hard work that goes into providing a quality Staff report. He then thanked County Attorney George Corn for allowing Mr. Beal be available for these proceedings. It was a matter of everyone rolling up their sleeves and allowing the people with the expertise to find a solution of problem. There is a serious safety issue with this road. He has attended

over the last few years these meetings where the Board has expressed their concerns with public health and safety. This is an opportunity for the Board to step up and address those concerns. He stated with the approval of Remington Ridge and the variance, there are similarities with this project. The Board's findings in the report with the Remington case granting the variance would not impose undue hardship with the width of the easements. He would say in this case there is no detriment to public health and safety and with the improvements the developers are proposing, it would improve public health and safety. He discussed the width of the east/west section of the road at 22 feet. The timeframe of these improvements are immediate with the variance approval. They intend to move ahead with urgency within an agreed upon timeline. During the course of the proceedings today, the Board has heard the people. The Board has heard personal feelings and personal preferences which neither have been a requirement. He requested the duty of the Board to weigh the evidence and arrive at a solution. He stated this is a process that has integrity mandated by our legislature. It is the Board's duty to make sure the integrity of the process is not violated.

Commissioner Grandstaff asked if these negotiations eliminated the possibility of litigation. She read the letter submitted by Mr. Van Canagan. Mr. Van Canagan stated they will not go forth with any litigation and that was the purpose of these negotiations.

Roger Mikesell stated he has been farming and the land is hard. He has had the gravel tested and was told the hardest factor is 19 and is very good. The Board has a chance for \$600,000 to improve the road. That is a significant amount of money to go towards the road. He suggested the Board roll up their sleeves and go to work.

► Commissioner Grandstaff requested a 10 minute recess. The Board concurred.

► Commissioner Grandstaff reconvened the hearing and commenced with public comment.

Ken Madden stated justice has fallen in the streets. In this day and age that we are in, he can be called a survivor. He is experienced in the field and has a business. The Board is responsible for the county budget. He discussed the short fall with PILT and SRS funding and stated he is confused with the Board possibility denying a chance for \$600,000. It causes him distress. He has watched a small group of individuals with loud voices direct the Commission for quite some time.

Curtis Cook stated the \$600,000 to fix the road is not going be part of the county budget. He would like to see the base fixed before the overlay. You don't repair a roof without looking underneath first. The Road Department will provide labor and equipment. With the county's share they could fix the road.

Bill Zader stated he was at the Planning Board meeting when they were reviewing this project. The developers presented the written information requested. He wants to get out of the political arena. He has a problem with the Planning Board Chair saying he did not know how much it was going to cost. The numbers are right there is front of him and

could have asked all the experts present during the meeting. He would like to see the process improved. There are politics running in that Board. The Board of Commissioners has the responsibility and the ability to clean up the Planning Board and make them act like good decent Montanans.

Lee Kierig stated they still have not heard the total County cost of the project. It is not whether or not to improve the road but rather this is about trying to create a sustainable community that can move into the future with perpetuity so that all people that live here can live a secure life in safety. This is about dynamic love for humanity. Nexus is a shampoo.

Henry Solvario stated we have a situation of the County Attorney's Office, Planning Department, and Road Department getting together for five months of negotiations. He would hate to waste it.

Commissioner Driscoll would like to enter 13 phone comments in support of Planning Board decision into record. Commissioner Grandstaff stated she also has about 8 to 10 calls in favor of the Planning Board's decision. Commissioner Driscoll stated she also has some emails as well.

Commissioner Grandstaff closed public comment.

Commissioner Grandstaff read the Planning Board's motion to deny the variance request based on the findings that the County cost is not clear and the proposed surface widths not adequate. The vote was 5 to 4 to approve this motion. Commissioner Grandstaff opened Board deliberations.

Criterion One: The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties: Commissioner Chilcott asked Terry if the current 50 foot wide easement could support a walking path. Terry stated with the 22 foot wide road, a 50 foot wide easement could provide 12 feet for a walking path.

Commissioner Grandstaff requested the Board review the criteria of the variance request.

Commissioner Driscoll stated she is sensitive of the young people utilizing the road because her son was hit on a 22 foot wide County road. Why are the AASHTO guidelines so important?

Terry replied they are guidelines that effect improvements to roads to make them safer. Matt Ulberg stated Ravalli County decided 60 feet is the standard easement width. AASHTO standards does not mandate 60 feet. State projects use AASHTO for existing construction. They are providing what is within the guidelines.

Commissioner Driscoll asked why the standards are not included in the outside of the subdivision and why the safety measures would be different? Matt replied it is very

important to AASHTO standards. With the Ravalli County standard of 60 feet, it provides for growth. We are dealing with 50 foot and even 40 foot widths throughout the county and it was accepted. When you ask if we are using AASHTO standards or not, subdivision regulations dictate what happens in the subdivision which is 60 feet. Existing exterior roadways depends on your impact. Mr. Ohnstad wants to apply new road standards. Matt read the following from the AASHTO standards: "the fact the new design values are presented herein does not imply that existing streets and highways are unsafe." That is a very powerful statement. A 50 foot right of way does not imply the roadway is unsafe. That roadway is unsafe because of the surface conditions and the curves that are not signed appropriately, properly or adequately. Nor does it mandate the initiation of an improvement project. As a county you need to know if you have a sub-standard, current or new road. It doesn't mean it initiates a capital improvements project just because of the width or because of the right of way. The AASHTO publication is not intended as a policy for resurfacing, restoration or rehabilitation projects (3R projects). This is a 3R project. For State and federal projects that are of this nature and scope, he would not apply AASHTO new road standards. He would apply AASHTO existing road standards which are contained in another document which he will provide for the Board. Existing design values may be retained. They are not changing the alignment or profile. He stated they have a slippery road condition problem in the winter. They are not designed for a speed limit of 50 mph. With reducing speed limits and repair of the road, it would make it safer. They are proposing the improvement to the shoulder as well. He explained Mr. Ohnstad stated if the ADT reached 2000 trips per day, the road should be at a width of 24 feet. The 22 foot width along the east/west section is adequate and is not a safety issue but rather what is going to happen in the future. This subdivision will have trails. Future subdivisions should consider 9 to 10 foot lanes to keep vehicular speeds down.

Commissioner Driscoll stated she drove the Eight Mile Creek Road and had to move to avoid potholes. It is dangerous. Matt replied the road is plain worn out. He explained the road improvements proposed.

Commissioner Rokosch asked if a traffic study was required for this proposal. David Ohnstad replied one was not required. Commissioner Rokosch stated that a traffic study should be done of the combined ADT. His concern is that the combined ADT of Sandhill to determine whether a traffic study be done. David replied the road is currently in disrepair. His job is to find resources for the Road Department. They will see an immediate \$600,000 to focus on the problem. It is equitable and will ensure public health and safety. Beyond that, the conversation with the AASHTO guidelines and standards surrounds the word "new". With regard to the county highway system, all of it exists. This has nothing to do with the guidelines although they are substantial. The issue is the word "new". This is a highway with the projected rate of over 2,000 ADT. New construction standards would require 8 foot wide gravel shoulders. That would be silly. It would only be a knapweed patch. The second issue is of the 50 wide easement. There would be no way a trail could safely fit in this 50 foot wide easement. You have a 24 foot wide surface existing with 2 foot wide shoulders and it is relatively flat. The conversation with folks is to develop a plan to acknowledge flaws in design. In regards to safety, wider does not mean safer. He discussed the curves with the design exception and to analyze

those and make a recommendation. The issue is the "new" standard. This is not comprehensive. This is an interim.

Commissioner Rokosch questioned the requirement for a traffic study and the additional ADTs.

David replied that the problems are at the curves. The mitigation that would result from a traffic study would not be different from what they are already proposing. The traffic impact analysis with those three areas of concern have been included in the design.

Commissioner Rokosch asked to describe the difference of the new road standards and the old standards. David replied new construction standards would require reconstruction of the curves, additional easement width, and additional design exceptions because of the cost and environment. He also stated that improving the road to new standards may not be feasible.

Commissioner Rokosch asked if a road meeting new standards would provide a physically safe road meeting existing standards. David replied technically perhaps. That analysis came up with the current alignment of those four areas. The mitigation proposed makes the four curvatures safer.

Commissioner Rokosch asked legal counsel if there is a discretion in requiring a traffic impact analysis. Renee replied the regulations require a study when the ADT would be increased 25%.

Commissioner Rokosch asked about combining the ADT for both subdivisions. David replied the focus of the discussions did combine them. It is not going to make a difference unless there is a tremendous volume of traffic. You are going to look at horizontal curvature.

Commissioner Chilcott stated he has heard citizens express concerns of safety on the road. It comes down to improving the level of safety on the road or working through the process to increase the level of safety. Criterion One is about detriment to safety and the road variance is a definite improvement to the current level of safety. Based on the Planning Staff report, he is ready to accept their conclusions of fact.

Commissioner Grandstaff stated she is not ready to accept the findings of fact. She reviewed Exhibit A-13 with the Board regarding the round about being built at the intersection of Eastside Highway with Eight Mile Creek Road. The current easement width cannot fit a pedestrian path. The trails should connect to Eight Mile Road. The Road Department is willing to provide labor; however the cost of such is not available. The county does not know what the impact will be. There will be developments on the west side of the road and the developers are requesting reimbursement from future pro-rata funds.

David stated he does have a cost estimate but it is capital fund expenditure.

Commissioner Driscoll stated by 2001, 4.11 miles had been chip-sealed. David Ohnstad disagreed with Commissioner Driscoll on her statement.

Commissioner Driscoll questioned the safety of the children with a 50 foot wide easement. David replied the width of the easement being 60 foot is a standard and would be accommodating to a walk path. With this proposal, the focus was on finding resources to make improvement to a deficient system. In his opinion, you cannot put a pathway in a 50 foot easement. Their focus was towards the road and vehicular traffic.

Commissioner Rokosch stated most public comments were focused on children utilizing the road, waiting for the bus, and no walkways being available. He would also like to address the garbage cans on the road. He thinks it would be pertinent to obtain fatality and accident reports for the road. He requested the Board strongly consider the requirement of a 60 foot easement with traffic increases. Resurfacing the road will not address the width being inadequate.

Commissioner Chilcott stated common sense is now out the window. What we have heard from the citizens here today is in good weather or poor, the condition of the road is at the point where erratic driving is required to negotiate the road. Not improving this road would be a detriment to public health and safety. Public costs are not part of this criteria. We have heard overwhelming testimony today to improve this road. This is an immediate improvement to the road condition.

George Corn stated the Board needs to make a decision not based on the fear of litigation. He stated the county road department stated this is acceptable for a county road. The variance is legal.

Commissioner Grandstaff requested a vote.

Commissioner Grandstaff and Commissioner Chilcott voted agree. Commissioner Rokosch and Commissioner Driscoll voted disagree.

Criterion Two: the conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property: Commissioner Grandstaff stated in the Staff Report it indicates core sampling. She has not seen any core samples on the reports. David replied it was not necessary in this situation through careful observation. They are treating this as a surface rehabilitation. In his opinion, reconstruction is not necessary. Board discussion followed regarding the reconstruction versus rehabilitation.

Commissioner Rokosch was concerned that Eight Mile Creek Road would degrade prior to the build-out of Morado Mountain Estates. Commissioner Rokosch asked about a table in the engineering report.

Matt explained the calculations are done at traffic character in a building traffic area. The truck make-up consists of concrete trucks, delivery trucks, etc. It was determined the

traffic volumes on the road, in an engineers opinion, is in low volume. Matt stated he agrees it isn't specifically accurate. Those volumes are grown to see what it would be in 10, 15 to 20 years. They have 80% reliability for cumulative traffic at 6% growth. It is a good solid overlay with ¾ inch thickness to serve the community. Matt further explained his traffic assumption to the Board.

Commissioner Rokosch questioned why core samples were not done. Matt replied the core samples have a low value assumptions to bolster the calculations. Aggregate is hard material and it is solid and reliable. They do not know what is out there but can make assumptions to support a conservative design. They are very comfortable with the numbers.

David stated the whole concept of core samples and the road way base to accommodate what has been proposed, would not have been proposed if it would not work. People who have operated the road for 30 years stated what they are proposing would be more than sufficient with a projected 20 year life.

Commissioner Grandstaff stated she does not agree with Staff findings for criterion 2. Commissioner Rokosch stated he concurs based on not knowing if the reconstruction of the road should be required versus rehabilitation.

Commissioner Driscoll asked what the cost of constructing the road to meet new standards. David replied it would be a million to a million and a half without the cost of obtaining easement.

Commissioner Grandstaff requested a vote.

Commissioner Chilcott and Commissioner Driscoll voted agree. Commissioner Grandstaff and Commissioner Rokosch voted disagree.

Commissioner Grandstaff recessed the meeting until 2:20 p.m.
Commissioner Grandstaff reconvened the meeting.

Criterion Three: Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s): Commissioner Grandstaff reviewed the findings of fact in the Staff Report. All Commissioners voted disagree.

Criterion Four: The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy: Commissioner Grandstaff reviewed the findings of fact in the Staff Report.

Commissioner Driscoll expressed her concern of weighing the cost versus the developers' mitigation. Commissioner Chilcott stated there is a fiscal liability to the taxpayers to bring this road up to standard. Commissioner Rokosch disagreed to some

extent with Commissioner Chilcott. He stated it is not so much bringing the road up to standard but cost.

Commissioner Grandstaff stated this does not consider the cumulative impacts of the development. Commissioner Chilcott stated it is limited by what is on the road today. They are impacted by what is existing on the road.

Joslin Monahan explained the improvements were proposed for a 6% growth rate. Commissioner Chilcott asked what the basis of the questions is. Commissioner Rokosch wondered what the level of service would be with the improvement and what is the cost to provide the balance and the longevity of it. Commissioner Chilcott pointed out the cost to bring the road up to standard is right in front of the Board. He stated just last week the Board tried to give away a free bridge.

Bill VanCanagan stated the material costs are going to be covered by the developers. The cost may be significantly more due to the price of oil. Bill stated in earlier testimony it was determined the county's portion is accounted for by Road Department.

Renee read an email submitted by David Ohnstad stating the funding would come from the operating budget. Commissioner Grandstaff stated the developers want to be reimbursed pro-rata shares for that area. Board discussion followed regarding other subdivisions contributing pro-rata.

Commissioner Rokosch stated the Board does not know the labor costs. He stated Exhibit A-23 revealed some costs to the county which did include material costs. He stated the actual costs to the public is not available. Renee stated she did ask David Ohnstad the amount via phone. Commissioner Chilcott stated the costs to fix or repair the existing condition of the road is going to cost the taxpayer something. If we are going to do a substantial project to bring it up to standard, it needs to be done to AASHTO standard and absorb the costs of the materials. We have struggled as a body with the nexus and proportionality. Commissioner Rokosch read a letter from Alex Beal to Bill Van Canagan stating the county would be responsible for all labor costs, some material costs and maintenance. Bill VanCanagan stated the letter does not include the final agreement. He requested a continuance until the information the Board is questioning can be presented to the Board. Commissioner Driscoll asked Bill if he heard a concise number during negotiations. Bill replied yes about \$253,000. George Corn thought David Ohnstad has those figures available.

Commissioner Chilcott made a motion to recess until 3 p.m. Commissioner Driscoll seconded the motion, all voted 'aye'.

Commissioner Grandstaff reconvened the meeting. She then contacted David Ohnstad via speaker phone. She read the letter from the County Attorney outlined the responsibility of the county for costs. She requested the dollar amounts for those costs. David requested another 10 minutes to present the costs.

Commissioner Grandstaff requested a vote.

Commissioner Grandstaff, Commissioner Rokosch, and Commissioner Driscoll voted disagree. Commissioner Chilcott voted agree.

Criterion Five: The variance will not cause a substantial increase in public costs:

Commissioner Driscoll explained the Board has to look at all aspects of budgeting and funding. Bill VanCanagan stated this is not a budget outline but an allocation of resources. Commissioner Grandstaff stated it is an indirect cost to the taxpayers. Commissioner Chilcott stated the Eight Mile area is getting a lot of pressure to develop. This is giving the Board an opportunity to do a whole lot more to increase the level of service. Commissioner Grandstaff stated the Commissioners have met with developers to come up with a solution and also with Missoula County Commissioners. She stated the solution of two developers throwing \$600,000 is a very expensive band aid. It is her opinion, it needs to be more than two developers to fix this problem. Commissioner Rokosch stated the important aspect is the variance not create substantial cost to the public. Commissioner Grandstaff stated the point is to not have one developer bear the cost of bringing the road up to standard and then have others come in and pay pro-rata. It is not fair. Terry replied if this is turned down, they will come back with a 19 lot subdivision and pay the pro-rata and the road will never be brought up to the standards. Commissioner Rokosch stated they have to look at a mix of existing landowners and new landowners. There are a number of things that could be written into a RSID as a mechanism for a necessary easement for public safety. Bill Zader asked what would happen if they did bring in an application for an RSID. The bonders will look at it as no value. It is not even a logical suggestion. Pro rata shares have been collected for this road. Where is that money?

David Ohnstad joined via speaker phone. He stated equipment rental, labor and miscellaneous materials would cost \$279,000. Since they are looking at a reduced cross section on the east/west section they won't have to move the ditches back. They are proposing the gravel overlay and laying down the asphalt would still be \$279,000. The would internal costs would not exceed \$300,000. Commissioner Chilcott asked what would be spent by the County if this variance is not approved. David replied they would have to grind up the existing surface and the cost of the oil and aggregate and time would be close to what it would cost them to provide labor to pave it. (\$300,000)

Commissioner Grandstaff asked if that would include labor. David replied it includes labor and oil and aggregate. Commissioner Driscoll questioned the timeframe. David replied there are two sections of Eight Mile and the first section was scheduled for development this year and the second in 2011. After this last winter, all of it needs to be done this summer.

Terry asked what the status of the road would be if the Road Department proceeded in the road project without the \$600,000 from the developer. David replied when you look at the type of structural type it would have the life of 20 years. They would chip seal the road to have an effective life of 5 to 7 years.

Commissioner Driscoll asked what projects would get bumped because of this project. David replied they are not looking at bumping any projects this year but perhaps next year.

Commissioner Chilcott asked if pro rata would be used. David replied no.

Commissioner Rokosch asked if David could describe the geographic boundaries of the grader districts. David replied they have five which they collect pro-rata funds for the Stevensville-Florence District runs along north to south. David discussed the funds for collector highways.

Commissioner Rokosch asked if the county would be responsible for any overages. David thought any overages would be minimal.

Commissioner Chilcott stated the estimate of cost to the county being \$300,000 whether or not the \$600,000 is being accepted. At the end of the day we end up with a much better road if this variance is approved.

Commissioner Rokosch stated he disagrees. The improvements will not last long enough. Matt replied that is not accurate. His estimates were based on 10 years longevity with $\frac{3}{4}$ inch thickness for gravel. He would support David Ohnstad's statement of getting at least 15 years for longevity. He is comfortable with the 3 $\frac{1}{2}$ inch overlay for 20 years longevity.

Commissioner Rokosch pointed out Highway 93 was a fully engineered road. Matt stated Highway 93 has design exception curves. We could rip up the road and lay a new road and may not get a better result. He stated this road is failing from a surface condition.

Commissioner Driscoll asked Matt from his expertise, is this putting the Board in the situation of having children be hit? Matt replied the numbers are that 40,000 people are killed per year. They have to decide where and when to widen the road for pedestrians. The pedestrians do not belong on the road. As an engineer, his responsibility is to the public. This roadway in his opinion does not represent a larger risk than any other roads in the county from a safety standpoint. Can we provide pathways everywhere? No we can't, but perhaps in the future they can. Matt discussed the Eastside Highway and pathways with Commissioner Driscoll. He stated he has requested traffic accident reports to identify certain types of accidents on certain areas.

Commissioner Chilcott stated he understood David's comments to mean that whether or not this variance is approved, it will cost the county taxpayer \$300,000.

Commissioner Grandstaff requested a vote.

**Commissioner Grandstaff and Commissioner Rokosch voted disagree.
Commissioner Driscoll and Commissioner Chilcott voted agree.**

Commissioner Grandstaff stated the Board has gone round and round with the criteria to make common sense.

George Corn asked what the count was on the variances.

Renee recapped the votes on the criteria.

Commissioner Grandstaff reviewed the prerequisite variance criteria. She asked how the votes come out affect the strict compliance with these regulations and will result in undue hardship. Commissioner Chilcott questioned the uniqueness. He stated this is a rare occurrence where we have neighbors coming in and requesting the Board approve the variance.

Bill VanCanagan recommended continuing until May 27th. Amy Arnold stated the gentleman who spoke earlier represented the entire homeowners association. All the people who spoke are in favor of the variance.

Commissioner Chilcott made a motion to continue this variance until May 27th at 9 a.m. Commissioner Driscoll seconded the motion. All voted 'aye'.

SIGN IN SHEET - COMMISSIONERS MEETING

PLEASE PRINT YOUR NAME LEGIBLY

DATE: May 6, 2008

MEETING: _____

Willie Schloer

207-0400 Corvallis

Julie Tikhonov

WGM Group 728-4611

Katherine Fichter

1116 Conroy Ridge Rd. Florence

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DENNIS SCHNEITER

620 EIGHT MILE RD. FLORENCE

Del Post

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Nicole Post

"

Bill Scullion

619 Eight Mile Rd Florence

LEE Kieris Architect Hamilton

Bill Zader

Terry Basolo

902 Granite Creek Rd. Flo.

Cynthia Pademacher

879 Weber Butte Trail

SIGN IN SHEET – COMMISSIONERS MEETING

PLEASE PRINT YOUR NAME LEGIBLY

DATE: 5-6-08

MEETING: _____

PAUL WILSON

190 CATTLE DR, VICTOR, MT 59875
